

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES M. CARSON,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 13-cv-05932 JRC

ORDER GRANTING MOTION FOR
ATTORNEY'S FEES PURSUANT
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, ECF No. 6; Consent to Proceed Before a United States Magistrate Judge, ECF No. 7). This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* ECF No. 26). Defendant has no objection to plaintiff's request (*see* ECF No. 27).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in

1 excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*
2 *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
3 to such agreement and will conduct an independent review to assure the reasonableness of the
4 fee requested, taking into consideration the character of the representation and results achieved.
5 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
6 fee agreement is the primary means for determining the fee, the Court will adjust the fee
7 downward if substandard representation was provided, if the attorney caused excessive delay, or
8 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
9 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

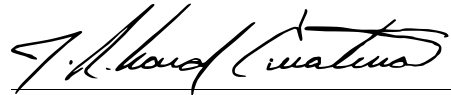
10 Here, the representation was standard, at least, and the results achieved excellent (*see*
11 ECF No. 26, Attachment 3). *See Grisbrecht, supra*, 535 U.S. at 808. This Court remanded for
12 further proceedings (*see* ECF No. 20) and following the second hearing, the ALJ awarded
13 disability benefits to plaintiff (ECF No. 26, Attachment 1, p. 1, Attachment 3) There has not
14 been excessive delay and no windfall will result from the requested fee.

15 The Social Security Administration (“SSA”) has withheld \$17,637.00 from plaintiff’s
16 past-due benefits to pay attorney’s fees (*see* ECF No. 16, Attachment 3, p. 3). Plaintiff has
17 moved for a net attorney’s fee of \$11,323.40 (*see* Motion, ECF No. 26, p. 1), and the Court has
18 considered plaintiff’s gross attorney’s fee of \$17,637.00 and the EAJA award received by
19 plaintiff’s attorney in the amount of \$6,313.60 (ECF No. 25). *Parish v. Comm’r. Soc. Sec.*
20 *Admin.*, 698 F.3d 1215, 1221 (9th Cir. 2012).

21 Based on plaintiff’s motion and supporting documents (*see* ECF No. 26, 26-1, 26-3, 26-4,
22 26-5, 26-6), and with no objection from defendant (ECF No. 27), it is hereby ORDERED that
23 attorney’s fees in the amount of \$11, 323.40 (\$17,637.00 minus \$6,313.60) be awarded to
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1 plaintiff's attorney pursuant to 42 U.S.C. § 406(b). When issuing the 42 U.S.C. § 406(b) check
2 for payment to plaintiff's attorney, the Social Security Administration is directed to send to
3 plaintiff's attorney the net balance of \$11,323.40, minus any applicable processing fees as
4 allowed by statute. After paying the attorney's fees, the Social Security Administration shall
5 release all remaining funds directly to plaintiff.

6 Dated this 18th day of November, 2015.

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9 J. Richard Creatura
United States Magistrate Judge
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